

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Austin Towell,**

Petitioner-Appellant,

**v.**

**City of Cedar Rapids Board of Review,**

Respondent-Appellee.

**ORDER**

**Docket No. 10-101-0368**

**Parcel No. 14234-78011-00000**

On March 25, 2011, the above captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Austin Towell was self-represented and requested the appeal proceed without hearing. The City of Cedar Rapids Board of Review designated City Attorney James H. Flitz as its legal representative. The Appeal Board having reviewed the record and being fully advised, finds:

***Findings of Fact***

Austin Towell is the owner of a residentially classified, single-family residence located at 651 32nd Street, SE, Cedar Rapids, Iowa. The property is a one-and-a-half-story home built in 1947 and has 1312 square feet of total above-grade living area. The property has a 772 square-foot, unfinished basement. There is also a 676 square-foot detached garage built in 1990; a 20 square-foot open front porch, a 40 square-foot side deck, and a 24 square-foot wood stoop to the rear. The site is 0.175 acres.

Notes on the property record card written in December of 2002, read as follows:

dwelling was moved to this location in 2001. Original kitchen and bath with ceramic tile shower, dining area is former bedroom, above normal cosmetics and normal

interior. Above normal exterior. Siding 1985 +/-, curling roof and furnace/ac 2001. Garage has gas heat.

These notes are consistent with permit details, also on the property record card (Exhibit C), indicating work on demolition (wrecking), plumbing, electrical, foundation, new dwelling, and garage. The permit dates range from March of 2001 to January of 2002.

Towell protested to the City of Cedar Rapids Board of Review regarding the January 1, 2010, re-assessment of \$127,813, allocated as \$30,559 in land value and \$97,254 in improvement value. This was a change in value from the prior assessment. Towell's claim was based on the ground that the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b). Towell asserted the correct value of the subject property was \$98,559, allocated as \$30,559 to the land and \$68,000 to the improvements.

In addition to his petition, Towell attached three property-record card print-outs from the Cedar Rapids Assessor's web-site. The print-outs have an electronic printing stamp of May, 3, 2010, similar to the petition date. The three properties were not sales and were interpreted by the Assessor as equity comparables, according to the 2010 Board of Review Summary Sheet in the certified record, which states "3 comparables submitted – based on equity." While Towell did not write the property addresses on his actual protest form, he clearly attached three properties intended to support an equity claim under Iowa Code section 441.37(1)(a). The addresses of the three properties attached were 3212 Mound Avenue SE, 635 32nd Street SE, and 627 32nd Street SE.

After consideration of all the data, the Board of Review granted partial relief, reducing the total assessment to \$118,000, allocated as \$30,559 in land value and \$87,441 in improvement value.

Towell then appealed to this Board reasserting both the claims of incquity and over-assessment; however, he now asserts the correct value of the subject property is \$95,559, allocated as \$30,559 in land value and \$65,000 in improvement value.

Two petitions to the Board of Review are in the record. A petition completed by Towell is included in the certification from the Board of Review, which is dated May 3, 2010. The form is stamped as received by the Board of Review on May 4, 2010. We consider this the “original” petition. A second petition to the Board of Review was included with Towell’s appeal to this Board. This petition appears to be an attempt to replicate the original petition. The second petition is dated July 7, 2010. The second petition is not in the certified record and there is no indication the Board of Review received it. On the second petition, Towell indicates an equity claim, as well as a market value claim. He also includes five addresses and their assessed values as equity comparables. Four of the five equity comparables are “new” and were not on the original petition. These new addresses include: 3222 Mound Avenue SE, 3226 Mound Avenue SE, 3214 Soutter Avenue SE, and 623 32nd Street SE. The fifth equity comparable provided on this second petition was 627 32nd Street SE, which was one of the three provided with the original petition.

We consider the original petition to be the one stamped as received by the Board of Review. We do not consider the second petition as an attempt to mislead; rather it appears Towell was simply trying to re-create a document he no longer had in his possession. However, we will not consider the additional addresses of the equity comparables, as there is no indication this second petition or list of properties was ever provided to the Board of Review.

Towell did not provide any written comparisons or analysis of the properties attached to the original petition; nor was there any reconciliation of these properties to a value conclusion for the subject property.

Additionally, Towell did not explain or analyze the sales he offered, information on these properties was provided to this Board by the Board of Review.

The Board of Review provided exhibits A through E which were compiled by the City of Cedar Rapids Assessor. Exhibit B is a one-page written statement explaining the facts, valuations, and other attachments from the Board of Review's position.

In Exhibit D provides information on the subject property, as well as the three equity comparables submitted by Towell in his original petition. The Board of Review notes the subject property is assessed at "above normal" condition due to the exterior updates including a re-shingled roof and newer vinyl siding. One of the comparables submitted by Towell, located at 3212 Mound Avenue, is noted as having a "below normal" condition rating. The other two comparables, 635 32nd Street, SE and 627 32nd Street, SE, are both noted as having "normal" condition ratings. Although a normal rating is slightly below an above normal rating we do not believe this alone would be reason enough to reject a property as comparable.

Exhibit D also has a chart of the petitioners equity comparables as follows:

**Petitioners Selected Equity Comparables**

	<b>Value</b>	<b>Total Living Area</b>	<b>Assessed/SF</b>
Subject	\$118,000	1312	\$89.94
Comp 1 (3212 Mound Ave SE)	\$93,449	780	\$119.81
Comp 2 (635 32nd St SE)	\$98,726	1104	\$89.43
Comp 3 (627 32nd St SE)	\$94,901	720	\$131.81

We note the exhibit incorrectly reports the total living area of comparables 1 and 3. The property record cards for each property, also included in Exhibit D, indicate a Total Living Area (TLA) found in the following chart:

	<b>Value</b>	<b>Total Living Area</b>	<b>Assessed/SF</b>
Subject	\$118,000	1312	\$89.94
Comp 1 (3212 Mound Ave SE)	\$93,449	1245	\$75.06
Comp 2 (635 32nd St SE)	\$98,726	1104	\$89.43
Comp 3 (627 32nd St SE)	\$94,901	1100	\$86.27

The corrected range of assessed value per square foot for the petitioners comparables is \$75.05 to \$89.43. The subject is slightly above this range.

While there is no analysis from Towell regarding these properties and how they demonstrate he is inequitably assessed; we likewise note the exhibit D does not offer any analysis or reconciliation of these properties as being comparable or not comparable to the subject property. However, other documents submitted by the Board do indicate they believe these properties are not reasonably comparable due primarily to style. We do not find the style of these properties to be significantly different than that of the subject. We do believe however, that the condition rating of the properties as “below normal” would explain why their assessed value per square foot is slightly lower than the subjects.

The Board of Review offers four equity comparables for our consideration, as well as three market value comparables. It provides a chart in Exhibit E as follows:

**Board of Reviews Selected Equity Comparables**

	<b>Value</b>	<b>Total Living Area</b>	<b>Assessed/SF</b>
Subject	\$118,000	1312	\$89.94
Comp 1 (2929 Soutter Avenue)	\$117,872	1336	\$88.23
Comp 2 (3236 Vine Ave, SE)	\$121,247	1386	\$87.48
Comp 3 (664 26th Street, SE)	\$127,075	1411	\$90.06
Comp 4 (4009 Dalewood Avenue, SE)	\$133,685	1550	\$86.25

All four properties are rated in above normal condition, similar to the subject property. The four comparables have an assessed value per square foot of \$86.25 to \$90.06, with a median of \$87.86 and an average of \$88.00, compared to the subject’s assessed value per square foot of \$89.94. We note the subject’s assessed value per square foot, while slightly above the median and average is within the range of comparables provided by the Board of Review. We find the Board’s comparables to be more supportive of an assessed-value-per-square-foot analysis because they are more similar in condition to the subject than Towell’s comparables.

The Board of Review's considered three market comparables. It provides a chart in Exhibit E as follows:

**Board of Reviews Selected Market Comparables**

	<b>Sale Date</b>	<b>Sale Price</b>	<b>Price/SF</b>	<b>Total Living Area</b>
Comp 1 (659 Memorial Dr. SE)	7/18/2008	\$130,500	\$98.42	1326
Comp 2 (395 Memorial Dr. SE)	4/30/2008	\$135,500	\$92.30	1468
Comp 3 (1935 Washington Ave SE)	2/27/2008	\$107,000	\$92.40	1158

Comparables 1 and 2 are rated in "very good" condition and comparable 3 is rated in "normal" condition. The assessor provides information about each sale, but there are no comparisons to the subject, no adjustments, no analysis, and no reconciliation of the data. We note all three properties sold between February 2008 and July 2008. We do not rely on 2008 sales to represent a January 1, 2010 assessment.

The Board of Review provided information on all the properties submitted by Towell and on its own comparables. However, it fails to analyze or reconcile any of the data to a final conclusion limiting the persuasiveness of the evidence. Additionally, it relies on sales that are eighteen months to nearly two years prior to the assessment date in question. Towell also offered only minimal data with no analysis or reconciliation to support his position.

Based on the foregoing, we find insufficient evidence has been presented to demonstrate the subject is either inequitably assessed or assessed for more than authorized by law.

***Conclusions of Law***

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal

Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

*Id.* at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

Towell provided three properties he considered as equity comparables; however, he offered no analysis of the properties to support his position. We also note that all three properties have lower condition ratings compared to the subject property. Because of the lack of analysis, and the lower condition ratings, we give this information little consideration.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the

correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Towell did not provide any evidence in support of his claim that the assessment is excessive. While the Board of Review provided information on three similarly sized, style, and location sales, all of them occurred in 2008. Because the subject property is not identified as unique resulting in few similar properties available for comparison, we do not rely on 2008 sales for a 2010 assessment.

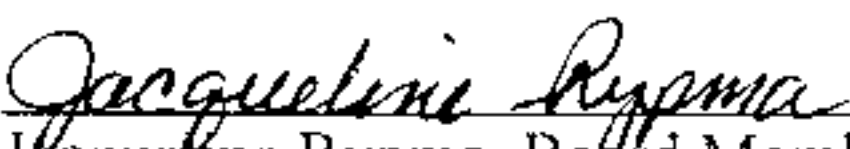
In the opinion of the Appeal Board, the evidence does not support the claims that the property's assessment is not equitable with like properties or assessed for more than the value authorized by Iowa Code section 441.21. We therefore affirm the assessment of Austin Towell's property as determined by the City of Cedar Rapids Board of Review as of January 1, 2010.

THE APPEAL BOARD ORDERS the assessment of Austin Towell's property located at 651 32nd Street, SE, Cedar Rapids, Iowa, of \$118,000 as of January 1, 2010, set by the City of Cedar Rapids Board of Review, is affirmed.

Dated this 25 day of May, 2011

  
Karen Oberman, Board Chair

  
Richard Stradley, Board Member

  
Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>5-13</u> , 2011	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	